

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

| | | |
|----------------------|---|----------------------------|
| JERRY W. EASTERLING, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 2:14-cv-02353-JEO |
| |) | |
| FORD MOTOR COMPANY, |) | |
| |) | |
| Defendant. |) | |

FORD MOTOR COMPANY’S MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, defendant Ford Motor Company (“Ford”) moves the Court to enter judgment in their favor as a matter of law. As grounds for this motion, Ford shows the Court the following:

1. This diversity action, governed by Alabama substantive law, arises out of a single-vehicle accident involving a 2003 Ford F-250 pickup truck, driven and owned by plaintiff Jerry Easterling. Plaintiff contends that he was wearing his seat belt but that it unlatched during the crash sequence. Plaintiff claims that he was injured as a result of the failure of the vehicle’s allegedly defective seat belt system.

2. Plaintiff asserts product liability claims under the following legal theories: Alabama Extended Manufacturer’s Liability Doctrine (“AEMLD”), negligence and wantonness (including failure to warn), and breach of implied

warranty.

3. Discovery in this matter is complete. The evidence collected during discovery, viewed in the light most favorable to Plaintiff, does not support his claims. Plaintiff has not produced substantial evidence to support each of the elements of his claims against Ford. Specifically, Plaintiff has not presented admissible evidence of a defect in the seat belt that proximately caused his injuries. This failure of proof is fatal to Plaintiff's tort and warranty claims.

4. Plaintiff's warning claim also fails because Plaintiff has not produced substantial evidence that Ford breached any duty to warn.

5. Because there are no genuine issues of material fact concerning Plaintiff's claims, Ford is entitled to judgment as a matter of law.

6. This Motion for Summary Judgment is supported by the following evidence, attached to Defendant's Consolidated Evidentiary Submission in Support of Dispositive Motions and filed contemporaneously with this Motion:

Exhibit A: Alabama Uniform Traffic Accident Report

Exhibit B: Excerpts from the Deposition of Jerry Waythan Easterling

Exhibit C: Deposition of Donald R. Phillips, P.E.

Exhibit D: August 10, 2016 Report by Donald R. Phillips, P.E.

Exhibit E: September 28, 2016 Supplemental Report by Donald R. Phillips, P.E.

Exhibit F: Deposition of Eric Lee Van Iderstine, P.E.

Exhibit G: August 9, 2016 Report by Eric Lee Van Iderstine, P.E.

Exhibit H: September 27, 2016 Supplemental Report by Eric Lee Van Iderstine, P.E.

Exhibit I: Curriculum Vitae of Donald R. Phillips, P.E.

7. Ford also relies upon and incorporates Ford's Brief in Support of Ford Motor Company's Motion for Summary Judgment filed contemporaneously with this Motion pursuant to the Court's Scheduling Order, as well as Ford's Motion to Exclude Opinions of Plaintiff's Expert Donald R. Phillips and supporting Brief.

WHEREFORE, defendant Ford Motor Company respectfully asks the Court to grant this Motion for Summary Judgment.

Respectfully submitted,

/s/ Paul F. Malek

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FONT CERTIFICATE

Pursuant to Local Rule 7.1D, I hereby certify that this pleading was prepared using a font and point selection approved by the Court in Local Rule 5.1C.

/s/ Paul F. Malek

Paul F. Malek
Attorneys for Defendant,
FORD MOTOR COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2017, a true and correct copy of the foregoing has been served on all counsel of record via electronic mail.

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/s/ Paul F. Malek

OF COUNSEL